had to answer. *Washington Gas Light Co.* v. *District of Columbia*, 161 U. S. 316; *Inhabitants of Westfield* v. *Mayo*, 122 Mass. 100; *City of Astoria* v. *Astoria & C. R. Co.*, 67 Ore. 538, 136 Pac. 645; see 4 DILLON, MUNICIPAL CORPORATIONS, 5 ed., §§ 1727–1730; BISHOP, NON-CONTRACT LAW, § 535. In situations of this character, although the negligent parties may be jointly liable to third persons, as between themselves they are not *in pari delicto*, for one merely stands sponsor for the exercise of due care by the other, and the one subject to the primary duty incurs the ultimate liability. *Gray* v. *Boston Gaslight Co.*, 114 Mass. 149; *Oceanic Steam Nav. Co.* v. *Compania Transatlantica Espanola*, 134 N. Y. 461, 31 N. E. 987, 144 N. Y. 663, 39 N. E. 360; *Central of Georgia R. Co.* v. *Macon Ry. & Light Co.*, 140 Ga. 309, 78 S. E. 931. Despite the concurring breach of duty, the principles of contributory negligence do not apply, for the right to indemnity is determined, not by comparing the efficiency of the negligence of each in causing the resulting loss, but by ascertaining the duties of the wrongdoers *inter se*. See 21 HARV. L. REV. 233, 242. But *cf. Nashua Steel and Iron Co.* v. *Worcester & Nashua R. Co.*, 62 N. H. 159. The result of the principal case is the more easily reached because of the anomalous doctrine of the Pennsylvania courts that the parties here, though equally liable to the outsider, are not chargeable as joint tortfeasors. *Dutton* v. *Borough of Lansdowne*, 198 Pa. St. 563, 48 Atl. 494. See *Brookville Borough* v. *Arthurs*, 130 Pa. St. 501, 515, 18 Atl. 1076, 1077; 15 HARV. L. REV. 159.

LIBEL AND SLANDER — DEFENSES — LIBEL OF BUSINESS CONDUCTED IN VIOLATION OF STATUTE. — The plaintiffs were engaged in the milk business, under the name of "The Lambert Dairy Company," in violation of a statute which made it a misdemeanor to conduct business under an assumed name without filing a certificate showing both the fictitious and the actual names of the participants. The defendant accused the dairy company of selling adulterated milk. The plaintiffs bring an action of libel for injury to the business. *Held*, that they cannot recover. *Williams* v. *New York Herald Co.*, 150 N. Y. Supp. 838 (App. Div.).

The statute in the principal case was probably designed to protect creditors and would not of itself be a defense for ordinary tortfeasors. *Wood* v. *Erie R. Co.*, 72 N. Y. 196. Hence, if the plaintiffs were suing for injury to their individual reputations, it seems that recovery should be allowed. *Long* v. *Chubb*, 5 C. & P. 55. This would accord with the general doctrine that a plaintiff's illegal conduct, unless a proximate cause, is no bar to his action. *Sutton* v. *Wauwatosa*, 29 Wis. 21. See 18 HARV. L. REV. 505; 27 HARV. L. REV. 317, 338. Even where the action is for damage to the plaintiffs in their business, as in the principal case, their illegality would not be a good defense by way of justification. *Rutherford* v. *Paddock*, 180 Mass. 289, 62 N. E. 381. But the breach of the statute does go to the merits of their right to maintain an action. For it seems impracticable to differentiate between an interference with the profits of an illegal business, and with the profits of an otherwise legal business carried on under an unlawful name. The profits, then, being those of an illegal undertaking, the plaintiffs cannot complain that they have been diminished. The cases which deny recovery to an unlicensed physician when his professional reputation is libelled seem closely analogous. *Hargan* v. *Purdy*, 93 Ky. 424, 20 S. W. 432; see *Collins* v. *Carnegie*, 1 A. & E. 695; *Marsh* v. *Davison*, 9 Paige (N. Y.) 580. It is possible that recovery might also be denied on the ground that, towards a business illegally conducted, there exists no duty with regard to the use of words. See *Johnson* v. *Irasburgh*, 47 Vt. 28; 27 HARV. L. REV. 317, 339.

LIFE ESTATES — RECOVERY BY LIFE TENANT FOR INJURY TO THE INHERITANCE: RELATION TO LIABILITY FOR PERMISSIVE WASTE. — The plaintiff, a